



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

July 12, 2023

BY ELECTRONIC MAIL

The Honorable P. Kevin Castel
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Foley Square
New York, NY 10007

**Re: *United States v. Brandon P. Austin, 23 Cr. 199 (PKC)*
 *United States v. Charles Riley Constant, 23 Cr. ____ (JMF)***

Dear Judge Castel and Judge Furman:

The Government respectfully submits this letter in accordance with the Court's procedure regarding factually related cases that are pending before different judges and to request that a change of plea hearing be scheduled for Tuesday, July 18, 2023. As further discussed below, the defendant in *United States v. Brandon P. Austin, 23 Cr. 199 (PKC)*, arranged to have the defendant in *United States v. Charles Riley Constant, 23 Cr. ____ (JMF)*, convert approximately \$1 million in fraudulently obtained COVID-19 relief loans from the U.S. Small Business Administration ("SBA") into bitcoin for the perpetrators of the underlying fraud scheme. After converting approximately \$660,000 of the fraud proceeds, and receiving approximately \$40,000 in commissions, Constant stole the remaining \$300,000 for his own use. Austin has pleaded guilty before Judge Castel, pursuant to a plea agreement with the Government. Constant is expected to waive indictment and plead to a felony Information.

By way of background, Austin held himself out to be a broker of private bitcoin exchange transactions that did not involve the use of established cryptocurrency exchanges. Austin knew that many, if not all, of his brokerage clients were criminals who needed to launder crime proceeds. Austin himself did not own a supply of bitcoin; instead, he contracted the services of others who could supply bitcoin. Constant, a licensed money transmitter who had accounts at regular cryptocurrency exchanges, was one such person. Austin used Constant to buy bitcoin from cryptocurrency exchanges and, in return, split his brokerage commissions with Constant.

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In July 2020, Austin sought Constant's help to convert approximately \$1 million on behalf of a client (the "Client"). The money was proceeds of fraudulently obtained Emergency Injury Disaster Loans ("EIDL") from the SBA. After Constant converted approximately \$660,000 on behalf of the Client and received \$40,000 in commission, he stole the remaining approximately \$300,000 of the fraudulently acquired EIDL funds and used a portion of that money to start a Bitcoin ATM business named Coindawg, LLC.

On April 13, 2023, Austin was charged by Information with conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h). He pleaded guilty on the same day. The conduct to which he pleaded guilty included conspiring to launder the proceeds of the fraudulently obtained EIDL loans. Sentencing is currently scheduled for September 6, 2023.

On July 12, 2023, Constant was charged by Complaint with violations of 18 U.S.C. §§ 1956(h) (conspiracy to commit money laundering), 641 (theft of public money), and 2315 (receipt of stolen money), in *United States v. Charles Riley Constant*, 23 Mag. 2234. Since then, the parties have negotiated a plea agreement, pursuant to which Constant is expected to waive indictment and plead guilty to one count of interstate transportation of stolen money, in violation of 18 U.S.C. § 2314. On July 13, 2023, through counsel, he consented to the filing of a Notice of Intent to File a Felony Information. The Notice of Intent has been wheeled out to Judge Furman.

Because Austin's and Constant's offense conduct overlaps, as summarized above, we submit this letter so that Your Honors can consider whether it would be advantageous for both cases to be handled by the same Court.

Finally, we request that a plea proceeding for Charles Riley Constant be scheduled for the morning of Tuesday, July 18, 2023, if that is convenient for the Court. The defendant and defense counsel will be traveling from Texas to this District.

Respectfully submitted,

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United States Attorney

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